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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,007	03/16/2004	Shogo Saramaru	250437US3X	1587

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EXAMINER
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GREENHUT, CHARLES N

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/801,007	SARAMARU ET AL.	
	Examiner	Art Unit	
	Charles N. Greenhut	3652	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 April 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2 and 4-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2 and 4-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

**I. Claim Rejections - 35 USC § 112**

The following is a quotation from the relevant paragraphs of 35 U.S.C. 112:

(2) The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 2-9 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

1.1. Claims 2 recites “a carrier device” in line 2 and a “relatively movable carrier” in line

12. It is unclear whether these terms refer to the same element, distinct elements, or an element and sub-element.

1.2. Claim 10 recites “a carrier device” in line 5 and a “relatively movable carrier” in line

15. It is unclear whether these terms refer to the same element, distinct elements, or an element and sub-element.

1.3. Claim 2 recites the limitation, “a relatively movable carrier” in line 12. It is unclear what movement is relative to. I.e., the temporary holding member moves relative to the holder or the temporary holding member and holder move relative to another element?

1.4. Claim 10 recites the limitation, “a relatively movable carrier” in line 15. It is unclear what movement is relative to. I.e., the temporary holding member moves relative to the holder or the temporary holding member and holder move relative to another element?

**II. Claim Rejections - 35 USC § 102**

Art Unit: 3652

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claim(s) 2, 4, and 6-10 is/are rejected under 35 U.S.C. 102(e) as being anticipated by HIROKI (US 6,709,521 B1).

1.1. With respect to claims 2, 4, and 6-9 HIROKI discloses a plurality of temporary holding members (37), switchingly movable between a temporary holding position (Fig. 10C) and a retracted position outside the processing vessel (upper chamber of 12/Fig. 2), movable relative to the holder (23), including an article holding portion (37a), having a reduced thickness/step portion (post 37c), a position switcher (38) outside the processing chamber (upper chamber of 12/Fig. 2) and a relatively movable carrier (26).

1.2. With respect to claims 10, HIROKI discloses a processing vessel having a chamber (upper chamber of 12/Fig. 2), holder (23), transferring apparatus including temporary holding member (37), switchingly movable between a temporary holding position (Fig. 10C) and a retracted position outside the processing vessel (upper chamber of 12/Fig. 2), and a relatively movable carrier (26)

### **III. Claim Rejections - 35 USC § 103**

Art Unit: 3652

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim(s) 5 and 11-12 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over HIROKI.

1.1. With respect to claims 5 and 11-12, HIROKI teaches the holding members including a rotatable shaft, but mounted below the processing vessel (upper chamber of 12). Claims 5 and 11-12 call for the holding members mounted on the processing vessel. Merely rearranging parts is within the capabilities of one having ordinary skill in the art. It would have been obvious to one of ordinary skill in the art to modify HIROKI to mount the holding members on the pressure vessel in order to reduce the space required below the processing chamber.

2. Claim(s) 13-20 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over HIROKI in view of FUJIKAWA (US 5,979,306 A).

2.1. With respect to claim 13-20, HIROKI discloses all the recited elements of the holder, transferring apparatus, carrier and temporary holding mechanism of applicant's claimed invention. HIROKI additionally contemplates adaptation for use with a variety of process (Col. 1 Li. 20-21). It was well known in the art at the time of applicant's claimed invention to use a processing chamber having two vessel members (2)/(3), such as the high-pressure processing chamber described by applicant, the chamber being loaded when the upper and lower members are

separated then subsequently united. This is taught by FUJIKAWA and other art of record. It would have been obvious to one of ordinary skill in the art to use the transferring apparatus of HIROKI in the processing vessel of FUJIKAWA as implicitly suggested by HIROKI.

#### **IV. Response to Applicant's Arguments**

Applicant's arguments entered 4/11/06 have been fully considered and are not persuasive.

1. Applicant argues that claims 2 and 10 are not anticipated by MURDOCH because MURDOCH does not disclose the temporary holding member is switchable between a temporary holding position and a retracted position resting outside of the processing vessel. This argument is not persuasive. A functional recitation of the capabilities, i.e., "switchable" of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In MURDOCH, the temporary holding member is capable of being switched between such positions. Regardless, the issue is mooted by the fact that applicant has amended claim 2 and 10 to require a position switcher provided outside of the process chamber. A new grounds of rejection is set forth above.
2. Applicant argues that claims 2 and 10, as amended, are not anticipated by the prior art because the prior art does not teach "a position switcher provided outside of the processing chamber." This argument is not persuasive. While HIROKI generally uses (12) to denote the "process chamber" figure 2 shows an upper region of that chamber, between (23) and (31), which

itself could properly be considered a "process chamber" sufficient to meet the limitations of applicants claim 2 and 10.

#### **V. Conclusion**

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
2. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action. .
3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles N. Greenhut whose telephone number is (571) 272-1517. The examiner can normally be reached on 7:30am - 4:00pm EST.
4. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.
5. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published

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applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CG

A handwritten signature in black ink that reads "Kathy Matecki". The signature is written in a cursive, flowing style.

**KATHY MATECKI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600**